

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF WASHINGTON
AT TACOMA

JOSHUA M MIRKA,

Plaintiff,

v.

CLALLAM COUNTY SHERIFF'S DEPT,
BILL BENEDICT, and KALENE ZELLAR,

Defendants.

CASE NO. C14-5173 RBL-JRC

ORDER

This 42 U.S.C. §1983 civil rights matter has been referred to the undersigned Magistrate Judge pursuant to 28 U.S.C. §§ 636 (b) (1) (A) and (B) and Local Magistrate Judge Rules MJR 1, MJR 3, and MJR 4.

Plaintiff has filed a motion for appointment of counsel and a motion asking the Court to serve the complaint (Dkt. 7 and 8). Plaintiff has complied with the Court's order to file an amended complaint (Dkt. 10 and 11). The Court has ordered service of the amended complaint. Thus, plaintiff's motion asking the Court to serve the complaint, (Dkt. 8), is denied as moot.

Plaintiff also asks the Court to appoint counsel to represent him in this matter (ECF No. 7). Plaintiff supports his motion with an affidavit stating that he has no money to hire an attorney

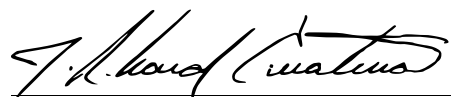
1 and that he will have a hard time proceeding with the action because of a lack of experience with
2 civil law (*id.*). The Court denies the motion.

3 There is no right to have counsel appointed in cases brought pursuant to 42 U.S.C. §
4 1983. Although the Court can request counsel to represent a party, 28 U.S.C. § 1915(e)(1), the
5 Court may do so only in exceptional circumstances. *Wilborn v. Escalderon*, 789 F.2d 1328,
6 1331 (9th Cir. 1986); *Franklin v. Murphy*, 745 F.2d 1221, 1236 (9th Cir. 1984); *Aldabe v.*
7 *Aldabe*, 616 F.2d 1089 (9th Cir. 1980). A finding of exceptional circumstances requires the
8 Court to evaluate both the likelihood of success on the merits and the ability of plaintiff to
9 articulate his claims pro se in light of the complexity of the legal issues involved. *Wilborn*, 789
10 F.2d at 1331.

11 Plaintiff alleges that flyers the Clallam County Sheriff's Office published contain
12 incorrect information regarding his sex crimes and that the flyers incorrectly portray him as a
13 violent child rapist (Dkt. 11). Plaintiff alleges that this incorrect information has caused him to
14 be ridiculed and harassed by third parties. Plaintiff alleges that the harassment has resulted in
15 loss of jobs and places to stay. Plaintiff alleges Fifth and Fourteenth Amendment violations as
16 well as a state defamation claim (Dkt. 11). Plaintiff has adequately articulated his claim.

17 This case is just starting and the Court cannot properly evaluate plaintiff's likelihood of
18 success on the merits. Plaintiff fails to show that appointment of counsel is warranted.
19 Plaintiff's inexperience in and of itself is not a factor the Court considers in deciding to appoint
20 counsel. The Court denies plaintiff's motion for appointment of counsel.

21 Dated this 28th day of March, 2014.

22
23 

24 J. Richard Creatura
United States Magistrate Judge